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Drafted by:	Roxanne Robles – DLS Permitting
Sponsors:	
Attachments:	None

1 ..Title

2 AN ORDINANCE relating to code compliance standards; and amending
3 Ordinance 10636, Section 10, as amended, and K.C.C. 9.12.080; Ordinance 10636,
4 Section 3, and K.C.C. 9.12.015; Ordinance 19276, Section 9, as amended, and K.C.C.
5 17.11.060; Ordinance 4461, Section 2, as amended, and K.C.C. 20.22.040; Ordinance
6 13263, Section 1, and K.C.C. 23.01.010; and Ordinance 13263, Section 3, as amended,
7 and K.C.C. 23.02.010; and Ordinance 13263, Section 5, as amended, and K.C.C.
8 23.02.040; Ordinance 13262, Section 6, as amended, and K.C.C. 23.02.050; Ordinance
9 13263, Section 7, as amended, and K.C.C. 23.02.060; Ordinance 13263, Section 8, as
10 amended, and K.C.C. 23.02.070; Ordinance 13263, Section 15, and KC.C. 23.20.010;
11 Ordinance 13263, Section 16, as amended, and K.C.C. 23.20.020; Ordinance 13263,
12 Section 37, as amended, and K.C.C. 23.32.010; Ordinance 13263, Section 40, as
13 amended, and K.C.C. 23.32.040; Ordinance 13263, Section 43, as amended, and K.C.C.
14 23.36.010; Ordinance 10662, Section 45, as amended, and K.C.C. 27.02.040.

15 ..Body

16 STATEMENT OF FACTS:

17 A. In 2015, the executive transmitted a Code Enforcement and Abatement
18 Process Evaluation report, filed as 2015-RPT0150. 2015-RPT0150 evaluated the
19 county's existing code enforcement process and made recommendations for process

20 improvements and code changes to improve the code enforcement process and shorten
21 the time from initial complaint through resolution.

22 B. In November 2022, the King County council adopted Ordinance 19546, an
23 ordinance which adopted the 2023-2024 Biennial Budget and made appropriations for the
24 operation of county agencies and departments and capital improvements for the fiscal
25 biennium beginning January 1, 2023 and ending December 31, 2024.

26 C. Ordinance 19546, Section 90 includes a proviso requiring transmittal of a
27 K.C.C. Title 23 update report, proposed ordinance implementing recommendations of the
28 report, a motion acknowledging receipt of the report, and a motion acknowledging receipt
29 of the report is passed by the council.

30 D. The K.C.C Title 23 update report shall include:

31 1. A description of the county's existing code enforcement process as outlined in
32 K.C.C. Title 23 and administrative procedures;

33 2. A description of the ways the code enforcement process has changed from
34 what is described in 2015-RPT0150;

35 3. An evaluation of any changes made to the code enforcement process since
36 from what is described in 2015-RPT0150, including whether the time between initial
37 complaint through resolution has been shortened;

38 4. Recommendations for ways the county's existing code enforcement process,
39 including K.C.C. Title 23, and other parts of the K.C.C. that address land use code
40 enforcement and the county's administrative procedures could be revised to shorten the
41 time from initial complaint through resolution; and

42 5. Recommendations for provisions of the county's development regulations,
43 including but not limited to, K.C.C. Titles 6, 9, 13, 14, 16, 17, 19A, 20, 21A, 27, and
44 27A, which could be amended to simplify the land use code enforcement process,
45 including to shorten the time between initial complaint through resolution.

46 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

47 SECTION 1. Ordinance 10636, Section 10, as amended, and K.C.C. 9.12.080 are
48 hereby amended to read as follows:

49 The enforcement provisions for water quality are intended to encourage
50 compliance with this chapter. To achieve this, ~~((responsible parties))~~ any person
51 responsible for code compliance as defined in K.C.C. 23.02.010.K will be required to
52 take corrective action and comply with this chapter~~((;))~~ and may be required to pay a civil
53 penalty and restitution payment for the redress of ecological, recreational, and economic
54 values lost or damaged due to their unlawful action.

55 A. The provisions in this section are in addition to and not in lieu of any other
56 penalty, sanction or right of action provided by law.

57 B. ~~((Any responsible party))~~ Any person responsible for code compliance in
58 violation of this chapter shall be subject to civil penalties assessed as follows:

59 1. An amount reasonably determined by the director to be equivalent to the
60 economic benefit the ~~((responsible party))~~ person responsible for code compliance
61 derives from the violation as measured by: the greater of the resulting increase in market
62 value of the property or business value received or savings of construction or retrofitting
63 costs realized; ~~((and))~~ or

64 2. An amount of civil penalties, not to exceed ten thousand dollars per violation
65 per day, that is reasonably based upon the criteria of subsection E.1. through 8. of this
66 section. The director is hereby authorized to utilize in the form of a point-based penalty
67 matrix that increases the penalty assessed as the seriousness of the violation increases.
68 The point-based penalty matrix shall be adopted together with guidance for compliance
69 officers and inspectors through the rule-making procedures of K.C.C. chapter 2.98. In
70 addition to the notification procedures required by K.C.C. chapter 2.98, for the initial rule
71 making under this section, the director shall:

- 72 a. hold a public meeting to take comments on the draft rule;
- 73 b. provide notice to the clerk of the council and each member of the county
74 council regarding the date, time and location of such meeting at least thirty days in
75 advance of the meeting; and
- 76 c. provide notice to the clerk of the council and each member of the county
77 council of proposed revisions to the initially drafted rule at least fifteen days prior to
78 adoption of the final rule; or

79 3. In addition to the civil penalties authorized under B.1 and B.2 of this section,
80 violations of K.C.C. chapter 9.12 may also be addressed by citations issued in accordance
81 with K.C.C. chapter 23.20 and civil penalties assessed according to the schedule in
82 K.C.C. 23.32.010.A.1., or as otherwise determined by public rule.

83 ~~((C. Any person who, through an act of commission or omission, aids or abets in~~
84 ~~a violation shall be considered to have committed the violation for the purposes of the~~
85 ~~civil penalty.~~

86 ~~D. In addition to civil penalties, a responsibility party whose violation of this~~
87 ~~chapter causes~~) C. In case of a violation of this chapter causing damage to or ~~((impairs))~~
88 impairments of a drainage facility,~~((or causes))~~ damage to physical, chemical, or
89 biological systems of waters of the state or ~~((waters))~~ of the United States, person or
90 persons responsible for the code violation as defined in K.C.C. Title 23 shall be liable to
91 and reimburse the county for any restitution, damage, cost, and expense caused by such a
92 violation or discharge.

93 ~~((E. Each responsible party is jointly and severally liable for a violation of this~~
94 ~~chapter.))~~D. The director may take enforcement action, in whole or in part, against any
95 ~~((responsible party))~~ person responsible for code compliance. The decisions of whether
96 to take enforcement action, what type of action to take, and ~~((which person))~~ who to take
97 action against, are all entirely within the director's discretion. Factors to be used in taking
98 such enforcement actions and assessing civil penalties shall include whether ~~((or not))~~:

- 99 1. The violation caused any environmental or resource damage;
- 100 2. Action was taken to remedy the problem after a violation occurred;
- 101 3. It was a willful or knowing violation;
- 102 4. The violation was a result of improper operation, inadequate maintenance or
103 inadequate implementation of required BMPs or of a required plan that addresses
104 stormwater management source control BMPs;
- 105 5. There is a history of compliance problems on the property or with the
106 ~~((responsible party))~~ person responsible for code compliance;
- 107 6. There is infrastructure damage or additional maintenance required of
108 conveyance system, drainage facilities, or right-of-way due to the violation;

109 7. There was an illicit connection; and

110 8. Anyone benefitted economically from noncompliance.

111 ~~((F.))~~ E. Civil penalties as provided for under subsection B.2. of this section shall
112 be assessed daily for any failure to comply with a notice and order or a voluntary
113 compliance agreement for the first thirty days ~~((following))~~ after the compliance date for
114 abatement required by the notice and order or voluntary compliance agreement ~~((that~~
115 ~~required the violation to have been corrected))~~. If after thirty days ~~((the person~~
116 ~~responsible for correcting the))~~ a violation has ~~((failed to do so))~~ not been fully abated,
117 penalties shall be double that of the initial rate for each day thereafter, until the violation
118 is corrected.

119 ~~((G.))~~ F. Civil penalties as provided for under subsection B.2. of this section that
120 are assessed for a violation of a cease discharge order shall be applied daily for each day
121 that the director determines that work or activity was done in violation of the cease
122 discharge order.

123 ~~((H.))~~ G. In the event more than one person is determined to ~~((have violated))~~ be
124 found in violation of this chapter, all applicable civil penalties may be imposed against
125 each person, and recoverable damages, costs, and expenses may be allocated among the
126 persons on any equitable basis. Factors that may be considered in determining an
127 equitable allocation include:

128 1. Each person's:

129 a. culpability or degree of involvement in the violation;

130 b. awareness of the violation;

131 c. ability to correct the violation;

132 d. ability to pay damages, costs, and expenses;

133 e. cooperation with government agencies; and

134 2. Degree of impact or potential threat to water or sediment quality, human

135 health, or the environment.

136 ~~((F.))~~ H. The director may engage in mitigation discussions with the ~~((responsible~~

137 ~~party))~~ person responsible for code compliance. The director may reduce ~~((the))~~ civil

138 penalties based upon one or more of the following mitigating factors:

139 1. The person responded to county attempts to contact the person and

140 cooperated with efforts to correct the violation;

141 2. The person showed due diligence or substantial progress, or both, in

142 correcting the violation; or

143 3. An unknown person was the primary cause of the violation.

144 ~~((F.))~~ I. Payment of a monetary penalty under this chapter does not relieve the

145 ~~((responsible party))~~ person responsible for code compliance of the duty to correct the

146 violation.

147 ~~((K.))~~ J. All civil penalties recovered during enforcement of this chapter shall be

148 deposited into a fund of the division taking the enforcement action and, subject to

149 appropriation, shall be used for the protection of surface water, stormwater or

150 groundwater as set forth in this chapter, through education or other implementation

151 procedures determined by the director.

152 ~~((E.))~~ K. Civil penalties assessed under this section may be appealed in

153 accordance with the appeal and waiver procedures for civil penalties in K.C.C. chapter

154 23.32.

155 SECTION 2. Ordinance 10636, Section 3, and K.C.C. 9.12.015 are hereby
156 amended to read as follows:

157 The definitions in this section apply throughout this chapter unless the context
158 clearly requires otherwise.

159 A. "AKART" means "all known, available and reasonable methods of prevention,
160 control, and treatment." "AKART" represents the most current methodology that can be
161 reasonably required for preventing, controlling, or abating the pollutants associated with
162 a discharge. "AKART" applies to both point and nonpoint sources of pollution.

163 B. "Best management practice" or "BMP" means any schedule of activities,
164 prohibition of practices, maintenance procedure, or structural or managerial practice
165 approved by King County that, when used singly or in combination, prevents or reduces
166 the release of pollutants and other adverse impacts to surface water, stormwater, and
167 groundwater.

168 C. "Cease discharge order" means a written order to immediately cease the
169 activity or activities causing or contributing to the discharge of a prohibited substance to
170 stormwater, surface water, groundwater or the conveyance system, or to any combination
171 thereof. A cease discharge order is a form of a stop work order under K.C.C. chapter
172 23.28.

173 D. "Chapter" means this chapter and any administrative rules and regulations
174 adopted to implement this chapter.

175 E. "Clean Water Act" means 33 U.S.C. 1251 et. seq., as amended.

176 F. "Conveyance system" means the drainage facilities and features, both natural
177 and constructed that provide for the collection and transport of surface water or

178 stormwater runoff. The natural elements of the "conveyance system" include swales and
179 small drainage courses, streams, rivers, lakes, and wetlands. The constructed elements of
180 the "conveyance system" include gutters, ditches, pipes, catch basins, channels, and most
181 flow control and water quality facilities.

182 G. "Director" means the director of the King County department of natural
183 resources and parks, other department directors specified in enforcement procedures
184 established in accordance with this chapter, or the authorized representatives of those
185 directors, including ~~((compliance officers and))~~ inspectors of the department of natural
186 resources and parks whose responsibility includes the detection and reporting of civil
187 code violations, as defined in K.C.C. 23.02.010 of this chapter.

188 H. "Discharge" means throw, drain, release, dump, spill, empty, emit, or pour
189 forth any matter or to cause or allow matter to flow, run or seep from land or be thrown,
190 drained, released, dumped, spilled, emptied, emitted or poured into water.

191 I. "Drainage facility" has the same meaning as in K.C.C. 9.04.020.

192 J. "Farm management plan" means a comprehensive site-specific plan developed
193 by the farm owner in cooperation with the King Conservation District taking into
194 consideration the land owners objectives while protecting water quality and related
195 natural resources.

196 K. "Forest practices" means any activity conducted on or directly pertaining to
197 forest land and relating to growing, harvesting, or processing timber, as defined in
198 chapter 222-16 WAC.

199 L. "Groundwater" means all water found in the soil and stratum beneath the land
200 surface or beneath the bed of any surface water.

201 M. "Illicit connection" means any human-made connection to the storm drain
202 system, surface water or groundwater that the director determines based on an
203 investigation or other evidence is not composed entirely of stormwater. For the purposes
204 of this subsection, "human-made connections" include, but are not limited to, sanitary
205 sewer connections, floor drains, channels, pipelines, conduits, inlets, hoses, above-ground
206 piping or outlets, that discharge directly to the storm drain system, surface water or
207 groundwater.

208 N. "National Pollutant Discharge Elimination System" or "NPDES" means the
209 national program for controlling pollutants from point source discharges directly into
210 waters of the United States under the Clean Water Act.

211 O. "National Pollutant Discharge Elimination System permit" means an
212 authorization, license or equivalent control document issued by the United States
213 Environmental Protection Agency or the Washington state Department of Ecology to
214 implement the requirements of the NPDES program.

215 P. "Normal single family residential activities" means activities that are
216 ordinarily associated with domestic residential uses and that ordinarily occur on a single
217 family residential property. "Normal single family residential activities" include but are
218 not limited to washing and repair of personal vehicles and boats; storage and disposal of
219 solid and yard wastes; use, storage and disposal of hazardous wastes; gardening and lawn
220 care; home maintenance and repair; and swimming pool and hot tub
221 maintenance. "Normal single family residential activities" do not include commercial
222 business activities that are not associated with domestic residential uses or that do not
223 ordinarily occur on a single family residential property.

224 Q. "Person" means an individual and the person's agent or assign, municipality,
225 political subdivision, government agency, partnership, corporation, business or any other
226 entity.

227 R. "Person responsible for code compliance" means either the person who caused
228 the violation, if that can be determined, or the owner, lessor, tenant or other person
229 entitled to control, use or occupy, or any combination of control, use or occupy, property
230 where a civil code violation occurs, or both. Any person causing or contributing to an
231 action prohibited by this chapter shall be considered a "person responsible for code
232 compliance."

233 S. "Prohibited discharge" also known as an illicit discharge, means any direct or
234 indirect act of discharging anything other than stormwater to the conveyance system,
235 stormwater, surface water or groundwater, except as expressly allowed by this chapter.

236 ~~((S. "Responsible party" means the owner, operator or occupant of property; or~~
237 ~~any person causing or contributing to an action prohibited by this chapter.))~~

238 T. "Source control BMP" means a BMP intended to prevent contaminants from
239 entering surface water, stormwater or groundwater including the modification of
240 processes to eliminate the production or use of contaminants. "Source control BMPs" can
241 be either structural or nonstructural. Structural source control BMPs involve the
242 construction of a physical structure on site, or other type of physical modification to a
243 site. An example of a structural source control BMP is building a covered storage
244 area. A nonstructural source control BMP involves the modification or addition of
245 managerial or behavioral practices. An example of a nonstructural source control BMP is
246 using less toxic alternatives to current products or sweeping parking lots.

247 U. "State Waste Discharge Permit" means an authorization, license, or equivalent
248 control document issued by the Washington state Department of Ecology in accordance
249 with chapter 173-216 WAC and under the authority of chapter 90.48 RCW.

250 V. "Stormwater" means the water produced during precipitation or snowmelt that
251 runs off, soaks into the ground or is dissipated into the atmosphere. Stormwater that runs
252 off or soaks into the ground ultimately becomes surface water or groundwater.

253 W. "Stormwater Pollution Prevention Manual" means the manual adopted in
254 accordance with K.C.C. chapter 2.98, and supporting documentation referenced or
255 incorporated in the manual, describing BMPs and procedures for existing facilities and
256 existing and new activities not covered by the Surface Water Design Manual.

257 X. "Surface water" means the water that exists on land surfaces before, during and
258 after stormwater runoff occurs and includes, but is not limited to, the water found on
259 ground surfaces and in drainage facilities, rivers, streams, springs, seeps, ponds, lakes,
260 wetlands, and Puget Sound. It also includes shallow groundwater.

261 Y. "Treatment BMP" means a BMP intended to remove contaminants once they
262 are already introduced into stormwater. Examples of treatment BMPs include oil/water
263 separators, biofiltration swales, and wetponds.

264 SECTION 3. Ordinance 19276, Section 9, as amended, and K.C.C. 17.11.060 are
265 hereby amended to read as follows:

266 A. A violation of this chapter is a misdemeanor and is punishable as prescribed
267 by law.

268 B. Notwithstanding any criminal penalty provided in this chapter, a person who
269 violates this chapter or chapter 70.77 RCW is subject to the maximum civil penalty in an

270 amount not to exceed two hundred fifty dollars per residential violation and \$500 per
271 nonresidential violation as defined in K.C.C. Title 23. In addition, a person in violation
272 of this chapter is responsible for any costs incurred to enforce this chapter, including
273 bringing a civil action, court costs, and reasonable attorneys' fees. All civil penalties
274 assessed shall be enforced under K.C.C. Title 23.

275 C. A person commits a separate offense for each day during which the person
276 commits, continues, or permits a violation of this chapter.

277 ~~((D. The civil and criminal penalties described in subsections A. through C. of
278 this section shall not be enforced for violations of K.C.C. 17.11.040.B. as it pertains to
279 the use or discharge of consumer fireworks, as defined in RCW 70.77.136, until one year
280 after Ordinance 19276 takes effect under RCW 70.77.250. During the period in which
281 these penalties are not being enforced, the King County sheriff's office and the fire
282 marshal shall only issue warnings to violators of K.C.C. 17.11.040.B. and shall provide
283 information to violators on the county's laws governing fireworks.))~~

284 SECTION 4. Ordinance 4461, Section 2, as amended, and K.C.C. 20.22.040 are
285 hereby amended to read as follows:

286 The examiner makes decisions on:

287 A. Appeals of orders of the ombuds under the lobbyist disclosure code under
288 K.C.C. chapter 1.07;

289 B. Appeals of sanctions of the finance and business operations division in the
290 department of executive services under K.C.C. chapter 2.97;

291 C. Appeals of career service review committee conversion decisions for part-time
292 and temporary employees under K.C.C. chapter 3.12A;

293 D. Appeals of electric vehicle recharging station penalties by the Metro transit
294 department under K.C.C. 4A.700.700;

295 E. Appeals of notice and orders of the manager of records and licensing services or
296 the department of local services permitting division manager under K.C.C. chapter 6.01;

297 F. Appeals of adult entertainment license denials, suspensions, and revocations
298 under K.C.C. chapter 6.09;

299 G. Appeals of the fire marshal's decisions on fireworks permits under K.C.C.
300 chapter 17.11;

301 H. Appeals of cable franchise nonrenewals under K.C.C. 6.27A.060 and notices
302 and orders under K.C.C. 6.27A.240;

303 I. Appeals of notice and orders of the department of natural resources and parks
304 under K.C.C. chapter 7.09;

305 J. Appeals of decisions of the director of the department of natural resources and
306 parks on surface water drainage enforcement under K.C.C. chapter 9.04;

307 K. Appeals of decisions of the director of the department of natural resources and
308 parks on requests for rate adjustments to surface and storm water management rates and
309 charges under K.C.C. chapter 9.08;

310 L. Appeals of decisions on water quality enforcement under K.C.C. chapter 9.12;

311 M. Appeals of notice and orders of the manager of regional animal services under
312 K.C.C. chapter 11.04;

313 N. Certifications by the finance and business operations division of the department
314 of executive services under K.C.C. chapter 12.16;

315 O. Appeals of orders of the office of equity and racial and social justice under
316 K.C.C. chapter 12.17, K.C.C. chapter 12.18, K.C.C chapter 12.20, and K.C.C. chapter
317 12.22;

318 P. Appeals of noise-related orders and citations of the department of local services,
319 permitting division, under K.C.C. chapter 12.86;

320 Q. A decision on a request for exemption under K.C.C. 12.25.020.F.;

321 R. Appeals of utilities technical review committee determinations on water service
322 availability under K.C.C. 13.24.090;

323 S. Appeals of decisions regarding mitigation payment system, commute trip
324 reduction, and intersection standards under K.C.C. Title 14;

325 T. Appeals of changes to speed limits under K.C.C. chapter 14.06;

326 U. Appeals related to road designations and redesignations under K.C.C. chapter
327 16.08;

328 V. Appeals of suspensions, revocations or limitations of plumbing permits under
329 K.C.C. chapter 16.32;

330 W. Appeals from denials of C-PACER applications under K.C.C. chapter 18.19;

331 X. Appeals of all Type 2 decisions under K.C.C. chapter 20.20, with the exception
332 of appeals of shoreline permits, including shoreline substantial development permits,
333 shoreline variances, and shoreline conditional uses, which are appealable to the state
334 Shoreline Hearings Board;

335 Y. Type 3 decisions under K.C.C. chapter 20.20;

336 Z. Appeals of SEPA decisions under K.C.C. 20.44.120 and public rules adopted
337 under K.C.C. 20.44.075;

338 AA. Appeals of completed farm management plans under K.C.C. 21A.30.045;

339 BB. Appeals of decisions of the interagency review committee created under

340 K.C.C. 21A.37.070 regarding sending site applications for certification under K.C.C.

341 chapter 21A.37;

342 CC. Appeals of citations, notices and orders, notices of noncompliance, and stop

343 work orders issued under K.C.C. Title 23 or chapter 1.08 of the code of the King County

344 board of health;

345 DD. Appeals of notices and certifications of junk vehicles to be removed as a

346 public nuisance under K.C.C. Title 21A and K.C.C. chapter 23.10;

347 EE. ~~((Appeals of decisions not to issue a citation or a notice and order under~~

348 ~~K.C.C. 23.36.010;~~

349 ~~FF.))~~ Appeals of fee waiver decisions by the department of local services,

350 permitting division under K.C.C. 27.02.040;))

351 ~~((GG.))~~ FF. Appeals from decisions of the department of natural resources and

352 parks related to permits, discharge authorizations, violations, and penalties under K.C.C.

353 28.84.050 and 28.84.060;

354 ~~((HH.))~~ GG. Appeals of transit rider suspensions under K.C.C. 28.96.430;

355 ~~((II.))~~ HH. Appeals of department of public safety seizures and intended

356 forfeitures, when properly designated by the chief law enforcement officer of the

357 department of public safety under RCW 69.50.505;

358 ~~((JJ.))~~ II. Other applications or appeals prescribed by ordinance.

359 SECTION 5. Ordinance 13263, Section 1 and K.C.C. 23.01.010 are hereby

360 amended to read as follows:

361 A. This title shall be known as "Code Compliance". The purpose of this title is to
362 identify processes and methods to encourage compliance with county laws and regulations
363 that King County has adopted pursuant to Article XI, Section 11 of the Washington
364 Constitution and other state laws to promote and protect the general public health, safety,
365 and environment of county residents. This title declares certain acts to be civil violations
366 and establishes non-penal enforcement procedures and civil penalties. This title also
367 declares certain acts to be misdemeanors.

368 B. It is the intention of the county to pursue code compliance actively and
369 vigorously within the limits of available enforcement resources, in order to protect the
370 health, safety, and welfare of the general public. This county intention is to be pursued in a
371 way that is consistent with adherence to, and respectful of, fundamental constitutional
372 principles.

373 C. While this title does authorize King County to take action to enforce county
374 laws and regulations, it shall not be construed as placing responsibility for code compliance
375 or enforcement upon King County in any particular case, or as creating any duty on the part
376 of King County to any particular person or class of persons.

377 SECTION 6. Ordinance 13263, Section 3, as amended, and K.C.C. 23.02.010 are
378 hereby amended to read as follows:

379 The words and phrases designated in this section shall be defined for the purposes
380 of this title as follows:

381 A. "Abate" means to take whatever steps are deemed necessary by the director to
382 return a property to the condition in which it existed before a civil code violation occurred

383 or to assure that the property complies with applicable code requirements. Abatement may
384 include, but is not limited to, rehabilitation, demolition, removal, replacement or repair.

385 B. "Civil code violation" means and includes one or more of the following:

386 1. Any act or omission contrary to any ordinance, resolution, regulation or public
387 rule of the county that regulates or protects public health, the environment or the use and
388 development of land or water, whether or not the ordinance, resolution or regulation is
389 codified; and

390 2. Any act or omission contrary to the conditions of any permit, notice and order,
391 voluntary compliance agreement, citation, cease discharge order, or stop work order issued
392 pursuant to any such an ordinance, resolution, regulation or public rule described in K.C.C.
393 23.02.010.B.1.

394 C. "Contested hearing" means a hearing requested in response to a citation to
395 contest the finding that a violation occurred or to contest that the person issued the citation
396 is responsible for the violation.

397 D. "Director" means, depending on the code violated:

398 1. The department of local services permitting division manager;

399 2. The director of the Seattle-King County department of public health, or "local
400 health officer" as that term is used in chapter 70.05 RCW;

401 3. The director of the department of natural resources and parks;

402 4. The director of any other county department authorized to enforce civil code
403 compliance;

404 5. Authorized representatives of a director, including compliance officers and
405 inspectors whose responsibility includes the detection and reporting of civil code
406 violations; or

407 6. Such other person as the council by ordinance authorizes to use this title.

408 E. "Found in violation" means that:

409 1. A citation, notice and order, cease discharge order, or stop work order has been
410 issued and not timely appealed;

411 2. A voluntary compliance agreement has been entered into; or

412 3. The hearing examiner has determined that the violation has occurred and the
413 hearing examiner's determination has not been stayed or reversed on appeal.

414 F. "Hearing examiner" means the office of the King County hearing examiner, as
415 provided in K.C.C. chapter 20.22.

416 G. "Mitigate" means to take measures, subject to county approval, to minimize the
417 harmful effects of the violation where remediation is either impossible or unreasonably
418 burdensome.

419 H. "Mitigation hearing" means a hearing requested in response to a citation to
420 explain mitigating circumstances surrounding the commission of a violation.

421 I. "Nonresidential violation" means any civil code violation that is not a residential
422 violation as defined in this section.

423 J. "Permit" means any form of certificate, approval, registration, license or any
424 other written permission issued by King County. All conditions of approval ((;)) and all
425 easements and use limitations shown on the face of an approved final plat map which are
426 intended to serve or protect the general public are deemed conditions applicable to all

427 subsequent plat property owners and their tenants and agents as permit requirements
428 enforceable under this title.

429 ~~((J))~~ K. "Person" means any individual, association, partnership, corporation or
430 legal entity, public or private, and the agents and assigns of the individual, association,
431 partnership, corporation, or legal entity.

432 ~~((K))~~ L. "Person responsible for code compliance" means either the person who
433 caused the violation, if that can be determined, or the owner, lessor, tenant, or other person
434 entitled to control, use, or occupy, or any combination of control, use, or occupy, property
435 where a civil code violation occurs, or both.

436 ~~((L))~~ M. "Public rule" means any rule adopted under K.C.C. chapter 2.98 to
437 implement code provisions.

438 ~~((M))~~ N. "Remediate" means to restore a site to a condition that complies with
439 critical area or other regulatory requirements as they existed when the violation occurred;
440 or, for sites that have been degraded under prior ownerships, restore to a condition that
441 does not pose a probable threat to the environment or to the public health, safety, or
442 welfare.

443 O. "Residential violation" means a civil code violation in which the person
444 responsible for the violation reside on the property where the violation occurs, and the
445 development, management, or use of the property is solely for residential purposes for the
446 benefit of the person responsible for the violation. A residential violation does not include
447 any violation resulting from home occupations, home industries, production of agricultural
448 products for commercial sale, or any code violation related to commercial activities located
449 on properties also used for residential purposes. A residential violation also does not

450 include any code violation committed by a land owner on residential property leased to a
451 resident tenant.

452 ((N.)) P. "Resolution" means any law enacted by resolution of the board of county
453 commissioners prior to the establishment of the charter, or any health rule adopted by
454 resolution of the board of health.

455 SECTION 7. Ordinance 13263, Section 5, as amended, and K.C.C. 23.02.040 are
456 hereby amended to read as follows:

457 A. In order to discourage public nuisances, make efficient use of public resources
458 and otherwise promote compliance with applicable code provisions, a director may, in
459 response to field observations or reliable complaints, determine that civil code violations
460 have occurred or are occurring and may:

461 1. Enter into voluntary compliance agreements with persons responsible for
462 code compliance, and issue notices of noncompliance if the persons responsible fail to
463 comply with the terms of the voluntary compliance agreement;

464 2. Issue citations and assess civil penalties as authorized by K.C.C. chapter
465 23.20;

466 3. Issue notice and orders, assess civil penalties and fines, and recover costs as
467 authorized by K.C.C. chapter 23.24;

468 4. Order abatement by means of a notice and order, and if abatement is not
469 completed in a timely manner by the person responsible for code compliance, undertake
470 the abatement and charge the reasonable costs of such work as authorized by K.C.C.
471 chapter 23.24;

472 5. Allow a person responsible for code compliance to perform community
473 service in lieu of paying civil penalties as authorized by K.C.C. chapter 23.24;

474 6. Order work stopped at a site by means of a stop work order, and if such order
475 is not complied with, assess civil penalties, as authorized by K.C.C. chapter 23.28;

476 7. Suspend, revoke or modify any permit previously issued by a director or deny
477 a permit application as authorized by K.C.C. chapter 23.24 when other efforts to achieve
478 compliance have failed; and

479 8. For ~~((de minimis))~~ low-risk violations as described in K.C.C. 23.02.050,
480 decide not to take enforcement action.

481 B. Should violations occur involving multiple agencies, a lead agency shall be
482 designated by the executive to coordinate the county's response. Unless otherwise
483 determined by the directors of the affected departments, the department of local services,
484 permitting division, shall serve as the lead agency.

485 C. The procedures set forth in this title are not exclusive. These procedures shall
486 not in any manner limit or restrict the county from remedying civil code violations or
487 abating civil code violations in any other manner authorized by law. This title shall not
488 be construed to affect the authority of the King County board of health in enforcement of
489 the King County board of health code or regulations.

490 D. In addition or as an alternative to using the procedures set forth in this title, a
491 director may seek legal or equitable relief to abate any conditions or enjoin any acts or
492 practices which constitute a civil code violation.

493 E. In addition or as an alternative to utilizing the procedures set forth in this title,
494 a director may assess or recover civil penalties accruing under this title by legal action

495 filed in King County superior court by the prosecuting attorney on behalf of King
496 County.

497 F. The provisions of this title shall in no way adversely affect the rights of the
498 owner, lessee or occupant of any property to recover all costs and expenses incurred and
499 required by this title from any person causing such violation.

500 G. A director may use the services of a collection agency in order to collect any
501 fines, penalties, fees or costs owing under this title.

502 H. In administering the provisions for code enforcement, the director shall have
503 the authority to waive any one or more such provisions so as to avoid substantial injustice
504 by application thereof to the acts or omissions of a public or private entity or individual,
505 or acts or omissions on public or private property including, for example, property
506 belonging to public or private utilities, where no apparent benefit has accrued to such
507 entity or individual from a code violation and any necessary remediation is being
508 promptly provided. For purposes of this clause, substantial injustice cannot be based
509 solely on economic hardship.

510 I. The provisions of this title detailing county department administration of code
511 compliance procedures are not to be construed as creating a substantive basis for appeal
512 or a defense of any kind to an alleged violation.

513 J. The provisions of this title authorizing the enforcement of non-codified
514 ordinances are intended to assure compliance with conditions of approval on plats,
515 unclassified use permits, zone reclassifications, and other similar permits or approvals
516 which may have been granted by ordinances which have not been codified, and to
517 enforce new regulatory ordinances which are not yet codified. Departments should be

518 sensitive to the possibility that citizens may not be aware of these ordinances, and should
519 give warnings prior to enforcing such ordinances, except in high ~~((risk))~~ priority cases as
520 set forth in K.C.C. 23.02.050.

521 K. The director of a King County agency that owns property, or is the custodian
522 of public property, is authorized to enforce K.C.C. 23.02.140 and any public rules
523 adopted under this title to implement that section for properties that the director's agency
524 owns or is custodian.

525 SECTION 8. Ordinance 13263, Section 6, as amended, and K.C.C. 23.02.050 are
526 hereby amended to read as follows:

527 A. A department may adopt public rules under K.C.C. chapter 2.98 consistent
528 with the following guidelines ~~((that set forth priorities for responding to code compliance~~
529 ~~complaints:))~~ for responding to code violation complaints as set forth in subsection B of
530 this section;

531 ~~((A.))~~ B. High ~~((risk investigations))~~ priority complaints include those needing an
532 urgent response ~~((including))~~ such as cases in which:

533 1. There ~~((is an imminent))~~ may be a significant likelihood of ~~((or actual))~~
534 bodily harm, damage to public resources or facilities, damage to real or personal
535 property, public health exposure, or serious environmental damage or contamination; or

536 2. The sites or persons responsible for code compliance have a history of prior
537 high ~~((or moderate risk violations))~~ priority complaints.

538 ~~((B.))~~ C. Moderate ~~((risk investigations))~~ priority complaints needing a
539 ~~((prompt))~~ response ~~((including))~~ as resources permit include cases in which:

540 ~~((a-t))~~ 1. ~~((is-risk))~~ There may be a possibility of bodily harm, damage to public
541 resources or facilities, damage to real or personal property, or environmental damage or
542 contamination;

543 ~~((b-t))~~ 2. The subject sites or persons responsible for code compliance have a
544 history of prior ~~((low-risk-violations))~~ moderate priority complaints;

545 ~~((c-t))~~ 3. There are ongoing moderate ~~((or low-risk-violations))~~ priority
546 complaints; or

547 ~~((d-m))~~ 4. More than five wrecked, dismantled or inoperative vehicles are
548 found.

549 ~~((3))~~ D. Low ~~((risk-investigations-needing-response-as-time-permits))~~ priority
550 complaints include those in which a code violation has been alleged on a parcel which the
551 person responsible will be provided with information regarding applicable code
552 requirements and abatement actions, but no further investigation or enforcement action
553 will be taken, ~~((including))~~ such as cases in which~~((:~~

554 ~~a.))~~ the alleged violation is non-emergent, does not fit within the high ~~((risk))~~
555 priority or moderate ~~((risk))~~ priority categories and has ~~((only-minor-public))~~ limited off-
556 site impacts ~~((; or))~~.

557 ~~((b-the-violation-is-an-isolated-incident.))~~

558 ~~((B))~~ E. The priorities set forth in this section are not jurisdictional and failure to
559 meet them in any particular case shall not affect the county's authority to enforce county
560 code provisions with regard to that case.

561 SECTION 9. Ordinance 13263, Section 7, as amended, and K.C.C. 23.02.060 are
562 hereby amended to read as follows:

563 This section sets forth guidelines for more specific procedures to be used by each
564 department in implementing this title. The guidelines set forth in this section are not
565 jurisdictional, and failure to meet them in any particular case shall not affect the county's
566 authority to enforce county code provisions with regard to that case.

567 A. Before conducting a field verification, code enforcement personnel shall
568 notify the owner, occupant, or other person responsible for code compliance of a possible
569 violation through any combination of phone, posting, email, and/or U.S. mail, that a field
570 verification is to occur. Code enforcement personnel shall not cross a parcel boundary
571 line onto private property without such prior notification, except in emergencies that pose
572 an imminent threat to environmental health or to the public safety or specifically for the
573 purpose of posting a notice.

574 B. In cases involving a complaint, the ~~((code enforcement))~~ enforcing agency
575 shall provide notice (prior to or concurrent with a field verification) ~~((in the following~~
576 ~~manner))~~ to ~~((:~~

577 ~~1. T))~~ the owner, occupant, and person responsible for code compliance, if not
578 an owner or occupant ~~((, shall be advised))~~ by personal contact, phone, posting, email, or
579 U.S. mail of any complaint ~~((; and~~

580 ~~2. The complainant should be contacted by phone and, if possible, in person~~
581 ~~during the field visit.))~~.

582 C. To the extent possible, all departments with ~~((compliance requirement))~~
583 enforcement authority shall record land-based violations in a database system, which
584 should be accessible to all other departments.

585 D. To the extent possible, the department shall check its own records and the
586 records of other county agencies for previous violations on the site of the alleged
587 violation or by the owner or occupant of the site (~~(or such other person as may be~~
588 ~~responsible for code compliance)~~). Each department shall develop and maintain a
589 database system for tracking violations of its codes that is designed, to the extent
590 possible, to be used in coordination with other departments.

591 E. Staff undertaking field investigations shall comply with the provisions of this
592 title regarding right of entry. This information shall be made available pursuant to
593 subsection C. of this section.

594 SECTION 10. Ordinance 13263, Section 8, as amended, and K.C.C. 23.02.070
595 are hereby amended to read as follows:

596 A. The department shall determine whether a violation has occurred, based on
597 information derived from sources (~~(such as)~~), including but not limited to, field
598 observations, the statements of witnesses, relevant documents, aerial and satellite
599 photographs from map databases, overlays in map databases indicating property lines,
600 topographical lines, critical areas, other data or aerial photographs taken by various legal
601 means, and data systems for tracking violations and applicable county codes (~~(, whether~~
602 ~~or not a violation has occurred)~~). As soon as a department has reasonable cause to
603 determine that a violation has occurred, it shall document the violation and promptly
604 notify the owner, occupant or other person responsible for code compliance. If a reported
605 violation cannot be verified through reasonable, documented attempts at investigation
606 within one hundred eighty days of receipt of a complaint, the enforcement case may be
607 closed.

608 B. Except as provided in subsection D. of this section, a warning shall be issued
609 verbally or in writing promptly when a field inspection ~~((reveals))~~ verifies a violation ~~((;~~
610 ~~or as soon as the department otherwise determines that a violation has occurred))~~. The
611 warning shall inform the owner, occupant, and any other person ~~((determined to be))~~
612 responsible for code compliance of the violation and shall include a reference to the
613 applicable permit or zoning condition, ordinance or code related to the violation. The
614 warning shall ~~((also allow the person))~~ provide an opportunity to correct the violation or
615 enter into a voluntary compliance agreement as provided for by this title. Verbal
616 warnings shall be logged and followed ~~((up with))~~ by a written warning within two weeks
617 of the verbal warning, and the site shall be reinspected within thirty days of the written
618 warning.

619 C. The guidelines in this section for warnings, notifications and reinspections are
620 not jurisdictional, and failure to meet them in any particular case shall not affect the
621 county's enforcement authority ~~((to enforce county code provisions with regard to that~~
622 ~~case))~~.

623 D. ~~((Not))~~ A warning need not be issued in cases involving; emergencies ~~((that~~
624 ~~pose))~~ posing an imminent threat to environmental health or to the public safety.

625 E. A department may issue a stop work order under K.C.C. 23.02.040 if it
626 determines that a violation involving activity requiring a permit is occurring, has
627 occurred, or is out of compliance with existing permit requirements;

628 F. A department may issue a cease discharge order under K.C.C. 23.28.010;

629 G. A department may issue a citation under K.C.C. chapter 23.20 if it determines
630 that the violation is likely to be a one-time occurrence or is likely to be fully corrected in

631 a reasonable period of time. A department may also issue a citation where specifically
632 authorized elsewhere in the K.C.C., or by public rule.

633 ~~((F.))~~ H. A department may issue notice and orders pursuant to K.C.C. chapter
634 23.24 in cases where it determines that the violation is unlikely to be fully corrected in a
635 reasonable period of time.

636 ~~((G.))~~ I. The department shall use all reasonable means to determine and cite the
637 person or persons actually responsible for the violation occurring when the owner has not
638 directly or indirectly caused the violation.

639 ~~((H.))~~ J. If the violation is not corrected or a voluntary compliance agreement is
640 not achieved within a reasonable time, a citation, or notice and order ~~((or stop work~~
641 ~~order))~~ should be issued. As a guideline, stop work orders should be issued within two
642 business days of discovery of a violation in progress. ~~((e))~~ Citations should be issued
643 within sixty days from ((receipt of a complaint and n)) verification of a violation. Notice
644 and orders should be issued within one hundred twenty days from ((receipt of a
645 complaint. Stop work orders should be issued promptly upon discovery of a violation in
646 progress)) verification of a violation.

647 ~~((I. Any complainant who provides a mailing address and requests to be kept~~
648 ~~advised of enforcement efforts should be mailed a copy of all written warnings, voluntary~~
649 ~~compliance agreements, citations, notice and orders, stop work orders and notices of~~
650 ~~settlement conferences issued by a department with regard to the alleged violation. Any~~
651 ~~complainant who is an aggrieved person and who alleges a violation of K.C.C. chapter~~
652 ~~9.12, 16.82 or 21A.24 may appeal a citation, notice and order, stop work order or a~~
653 ~~determination not to issue a citation or order under K.C.C. chapter 20.22. The appeal~~

654 ~~under this subsection shall be considered a civil proceeding, and any decision to pursue~~
655 ~~criminal sanctions shall remain the obligation of the prosecuting attorney, as set out in~~
656 ~~K.C.C. 23.02.030.))~~

657 SECTION 11. Ordinance 13263, Section 15 and K.C.C. 23.20.010 are hereby
658 amended to read as follows.

659 Whenever a director has determined, based on reasonable investigation ((~~of~~
660 ~~documents and/or physical evidence,~~)) that a civil code violation has occurred, in addition
661 to other enforcement actions the director may issue a citation to any person responsible
662 for code compliance. The director shall ((~~make a determination~~)) decide whether ((~~or~~
663 ~~not~~)) to issue a citation within sixty days of ((~~receiving a complaint alleging a violation or~~
664 ~~otherwise discovering that a violation may potentially exist. Subsequent complaints shall~~
665 ~~be treated as new complaints for purposes of this section~~)) determining that a violation
666 exists or has occurred.

667 SECTION 12. Ordinance 13263, Section 16, as amended, and K.C.C. 23.20.020
668 are hereby amended to read as follows:

669 A. A citation represents a determination that a civil code violation has been
670 committed and that the person cited is a person responsible for code compliance. The
671 determination is final unless contested as provided in this title.

672 B. Subject to K.C.C. 23.02.130, a citation subjects the person responsible for
673 code compliance to the civil fine prescribed by K.C.C. chapter 23.32, or by public rule.

674 C. Subject to K.C.C. 23.02.140, a citation may subject the person responsible for
675 code compliance to an illegal dumping cleanup restitution payment.

676 D. The person issued a citation shall respond to the citation as provided in K.C.C.
677 23.20.060 and 23.20.070 within seventeen days of the date of service of the citation.

678 E. Failure to respond to the citation within seventeen days of the date of service
679 of the citation shall render the citation a final determination that the conditions described
680 in the citation existed and constituted a civil code violation and that the person cited is
681 liable as a person responsible for code compliance.

682 F. Imposition of a civil fine creates a joint and several personal obligation in all
683 persons responsible for code compliance who are served with the citation. The
684 prosecuting attorney on behalf of King County may collect the civil fines assessed by any
685 appropriate legal means.

686 G. Issuance of a citation in no way limits a director's authority to issue a notice
687 and order, cease discharge order, or stop work order to the same person responsible for
688 code compliance pursuant to this title. Payment of the civil fine assessed under the
689 citation does not relieve a person responsible for code compliance of that person's duty to
690 correct the violation or to pay any and all civil penalties accruing under a notice and order
691 or stop work order issued pursuant to this title.

692 SECTION 13. Ordinance 13263, Section 37, as amended, and K.C.C. 23.32.010
693 are hereby amended to read as follows:

694 A((+)). Civil fines and civil penalties for civil code violations shall be assessed
695 based on whether the violation is a residential or a nonresidential violation, as set forth in
696 K.C.C. 23.02.010.E and 23.02.010.J. Civil fines and penalties shall be imposed for
697 remedial purposes and shall be assessed for each violation identified in a citation, notice
698 and order, voluntary compliance agreement, cease discharge order, or stop work order

699 ((pursuant to)) as set forth in public rule, as set forth in Title 9, or as set forth in the
 700 following schedule:

<p>((a-e)) <u>1. Citations, except for winery, brewery, distillery facility I, II, and III, and remote tasting room, and except for violations of K.C.C. chapter 17.11 or chapter 70.77 RCW:</u></p>	
<p>((1)) <u>a. with no previous similar code violations</u></p>	<p><u>\$100 for a residential violation and \$250 for a nonresidential violation.</u></p>
<p>((2)) <u>b. with no previous code violations of K.C.C. chapter 12.86 within the past twelve months</u></p>	<p>(\$125) <u>250 for a residential violation and \$300 for a nonresidential violation.</u></p>
<p>((3)) <u>c. with one previous code violation of K.C.C. chapter 12.86 within the past twelve months</u></p>	<p><u>\$250 for a residential violation and \$500 for a nonresidential violation.</u></p>

<p>((—(4) with one or more previous similar code violations, or with two previous code violations of K.C.C. chapter 12.86 within the past twelve months))</p>	<p>(\$500)</p>
<p>((—(5) with two or more previous violations of K.C.C. Title 10, or three or more previous code violations of K.C.C. chapter 12.86 within the past twelve months))</p>	<p>((Double the rate of the previous penalty))</p>
<p>((b c)) 2. Citations for violations of winery, brewery, distillery facility I, II, and III, and remote tasting room zoning conditions, including but not limited to unapproved events;</p>	
<p>((1)) a. with no previous similar code violations within the past twelve months;</p>	<p>\$500</p>
<p>((2)) b. with one or more previous similar code violations within the past twelve months;</p>	<p>\$1,000</p>
<p>c. citations for violations of fireworks regulations under K.C.C. chapter 17.11 or RCW chapter 70.77;</p>	<p><u>\$250 per residential violation and \$500 per nonresidential violation.</u></p>
<p>((d. v)) 3. Violation of notice and orders and stop work orders;</p>	
<p>((1)) a. stop work order basic penalty</p>	<p><u>\$500 for residential violations and</u></p>

	<u>\$1,000 for nonresidential violations.</u>
((<u>(2)</u>) <u>b.</u> voluntary compliance agreement and notice and order basic penalty	\$(25) <u>250 per day for residential violations and \$500 per day for nonresidential violations.</u>
((—(3) additional initial penalties may be added in the following amounts for violations where there is:))	
((—(a) public health risk))	(\$15)
((—(b) environmental damage risk))	(\$15)
((—(c) damage to property risk))	(\$15)
((—(d) one previous similar code violation))	(\$25)
((—(e) two previous similar code violations))	(\$50)
((—(f) three or more previous similar code violations))	(\$75)
((—(g) economic benefit to person responsible for violation))	(\$25)
((d.e)) 4. Cleanup restitution payment: as specified in K.C.C. 23.02.140.	

<p>((e. f)) <u>5. Reinspection</u> following the issuance of a notice and order, if the violation has not been abated in accordance with the notice and order:</p>	
<p>((1)) <u>a.</u> first reinspection, which shall occur no sooner than the day following the date compliance is required by the notice and order</p>	<p><u>\$150 for a residential violation.</u> <u>\$300 for a nonresidential violation.</u></p>
<p>((2)) <u>b.</u> second reinspection, which shall occur no sooner than fourteen days following the first reinspection</p>	<p><u>\$300 for a residential violation.</u> <u>\$600 for a nonresidential violation.</u></p>
<p>((3)) <u>c.</u> third reinspection, which shall occur no sooner than fourteen days following the second reinspection</p>	<p>\$(450)) <u>500 for a residential violation.</u> <u>\$1,000 for a nonresidential violation.</u></p>
<p>((4)) <u>d.</u> reinspection after the third reinspection, which shall only be conducted immediately preceding an administrative or court ordered abatement, or at the direction of the prosecuting attorney for the purpose of presenting evidence in the course of litigation, or</p>	<p>\$(450)) <u>500 for a residential violation.</u> <u>\$1,000 for a nonresidential violation.</u></p>

administrative hearing against the person responsible for code compliance	
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701 ~~((2))~~ B. For the purposes of this section, previous similar code violations that
702 can serve as a basis for a higher level of civil penalties include violations of the same
703 chapter of the King County Code. Any citation, stop work order, or notice and order
704 previously issued by the department shall not constitute a previous code violation for the
705 purposes of this section if that stop work order or notice and order was appealed and
706 subsequently reversed.

707 ~~((B))~~ C. The penalties assessed pursuant to this section for any failure to comply
708 with a notice and order or voluntary compliance agreement shall be assessed daily,
709 according to the schedule in subsection A of this section, for the first thirty days
710 following the date the notice and order or voluntary compliance agreement required the
711 code violations to have been cured. If after thirty days the person responsible for code
712 compliance has failed to satisfy the notice and order or voluntary compliance agreement,
713 penalties shall be assessed daily at a rate of double the rate for the first thirty days.
714 Penalties may be assessed daily until the person responsible for code compliance has
715 fully complied with the notice and order.

716 ~~((C))~~ D. Penalties based on violation of a stop work order shall be assessed,
717 according to the schedule in subsection A. of this section, for each day the department
718 determines that work or activity was done in violation of the stop work order.

719 ~~((D))~~ E. Citations and cleanup restitution payments shall only be subject to a one-
720 time civil penalty.

721 (~~E~~) F. The director may suspend the imposition of additional civil penalties if
722 the person responsible for code compliance has entered into a voluntary compliance
723 agreement. If the person responsible for code compliance enters into a voluntary
724 compliance agreement and cures the code violations, the director may also waive all or
725 part of the accrued civil penalties in accordance with K.C.C. 23.32.050. Penalties shall
726 begin to accrue again pursuant to the terms of the voluntary compliance agreement if any
727 necessary permits applied for are denied, canceled or not pursued, or if corrective action
728 identified in the voluntary compliance agreement is not completed as specified.

729 (~~F~~) G. The civil penalties in this section are in addition to, and not in lieu of,
730 any penalties, sanctions, restitution or fines provided for in any other provisions of law.

731 SECTION 14. Ordinance 13263, Section 40, as amended, and K.C.C. 23.32.040
732 are hereby amended to read as follows:

733 A. The code compliance provisions for critical areas are intended to encourage
734 compliance with K.C.C. chapter 21A.24, to protect critical areas and the general public
735 from harm and to further the remedial purposes of this title. To achieve this, persons
736 responsible for code compliance will not only be required to restore damaged critical
737 areas, insofar as that is possible and beneficial, but will also be required to pay a civil
738 penalty for the redress of ecological, recreation, and economic values lost or damaged
739 due to their unlawful action.

740 B. The provisions in this section are in addition to and not in lieu of any other
741 penalty, sanction or right of action provided by law for other related violations.

742 C. Where feasible, the owner of the land on which the violation occurred shall be
743 named as a party to the notice and order. In addition to any other persons who may be

744 liable for a violation, and subject to the exceptions provided in K.C.C. 23.02.130, the
745 owner shall be jointly and severally liable for the restoration of a site and payment of any
746 civil penalties imposed.

747 D. For the purposes of this section, violation of the critical area ordinance means:

748 1. The violation of any provision of K.C.C. chapter 21A.24 or rules adopted
749 thereunder;

750 2. The failure to obtain a permit required for work in a critical area; or

751 3. The failure to comply with the conditions of any permit, approval, terms and
752 conditions of any critical area tract or setback area, easement or other covenant, plat
753 restriction or binding assurance, or any notice and order, stop work order, mitigation
754 plan, contract, or agreement issued or concluded pursuant to the above-mentioned
755 provisions.

756 E. Any person in violation of the critical areas ordinance may be subject to civil
757 penalties, costs, and fees assessed as follows:

758 1. According to the civil penalty schedule included in this chapter of this title,
759 provided that the exact amount of the penalty per violation shall be determined by the
760 department based on the physical extent and severity of the violation; or

761 2. The greater of

762 a. An amount determined to be equivalent to the economic benefit that the
763 person responsible for code compliance derives from the violation measured as the total
764 of:

765 (1) the resulting increase in market value of the property;

766 (2) the value received by the person responsible for code compliance; and

767 (3) the savings of construction costs realized by the person responsible for
768 code compliance as a result of performing any act in violation of the chapter; or

769 b. Code compliance costs (~~((not to exceed \$25,000.00))~~) incurred by the county
770 to enforce the critical areas ordinance against the person responsible for code compliance,
771 such costs not to exceed \$50,000.00 for a residential violation or \$100,000.00 for a
772 nonresidential violation of K.C.C. chapter 21A.24.

773 SECTION 15. Ordinance 13263, Section 43, as amended, and K.C.C. 23.36.010
774 are hereby amended to read as follows:

775 A. Any person named in a notice and order, cease discharge order, or stop work
776 order and any owner of the land where the violation occurred for which a notice and
777 order or stop work order is issued may appeal the notice and order or stop work order in
778 accordance with K.C.C. 20.22.080.

779 ~~B.((Any complainant who has alleged a violation of K.C.C. chapter 9.12, 16.82~~
780 ~~or 21A.24, who is an aggrieved person under K.C.C. Title 20 and who requests to be kept~~
781 ~~advised in accordance with K.C.C. 23.02.070.H. may appeal a citation, notice and order,~~
782 ~~stop work order or a determination not to issue a citation or order in accordance with~~
783 ~~K.C.C. 20.22.080.~~

784 ~~€.)~~) Any person issued a citation shall respond to the citation as provided in
785 K.C.C. chapter 23.20.

786 ~~((D-))~~ C. A statement of appeal shall comply with the form, content and service
787 requirements of K.C.C. chapters 20.20 and 20.22 and adopted public rules.

788 SECTION 16. Ordinance 10662, Section 45, as amended, and K.C.C. 27.02.040
789 are hereby amended to read as follows:

790 A. The director shall have the discretion to waive all or a portion of the fees
791 administered by the department and required pursuant to this title, provided, the waiver is
792 warranted in the director's judgment. A fee shall be waived if one or more of the following
793 conditions applies to the service for which the fee was assessed:

- 794 1. The service was not performed;
- 795 2. The service is duplicative; that is, a service of similar body of work was
796 already performed and fees were collected for that service;
- 797 3. The service is not required for permit approval;
- 798 4. The service was based on a professional or processing error caused by the
799 department;
- 800 5. The service was in response to a natural disaster as declared by the executive in
801 accordance with K.C.C. 12.52.030; or
- 802 6. The service was in response to a public health or safety emergency, for which
803 in the judgement of the director the public benefit of permitting services exceeds the fee for
804 the services.

805 B. An applicant must file a fee waiver request in writing no later than twenty-one
806 days after final approval of the permit by the department.

807 C. Any fee waiver decision shall be in writing and shall state a compelling need or
808 public purpose to be served by the waiver, if granted. The need or purpose must be
809 consistent with standards established in subsection A. of this section and under K.C.C.
810 chapter 2.98.

811 D. The director's fee waiver decision is final unless the applicant then files with
812 the director a statement of appeal, together with the required appeal fee, and complies

813 with the appeal provisions in K.C.C. 20.22.080. The applicant may appeal a fee waiver
814 decision only if the director has denied all or a portion of the applicant's request.

815 E. In an appeal of a fee waiver decision, the burden is on the applicant to prove
816 that the particular fee was unreasonable or inconsistent with this title. If the applicant
817 fails to meet that burden, the examiner shall affirm the decision of the director. If the
818 examiner determines that a particular fee was unreasonable or inconsistent with the
819 provisions of this title, the examiner shall modify the fee, order the department to modify
820 the fee in accordance with the examiner's ruling or provide such other relief as reasonably
821 necessary. If the examiner determines that the applicant is the substantially prevailing
822 party, the department shall waive and refund the appeal fee. The examiner's decision is
823 final.

824 F. In an appeal under this section, the applicant may only challenge the
825 department's application of the development permit fees provided for in this title to the
826 applicant's permit and approval. The applicant may not challenge in an appeal under this
827 section the development permit fees in this title.